

REMARKS

The specification has been amended to correct typographical errors, to update the priority claim for the application, and to amend the title of the application.

Claims 24 and 25 have been amended to clarify the subject matter claimed. New claims 27 - 34 have been added. Support for the amendments and the new claims can be found throughout the specification, e.g., at page 23, lines 5-14.

Now pending are claims 19 – 34. No new matter has been added.

Amendment of any claim herein is not to be construed as acquiescence to any of the rejections/objections set forth in the instant Office Action, and was done solely to expedite prosecution of the application. Applicants make these amendments without prejudice to pursuing the original subject matter of this application in a later filed application claiming benefit of the instant application, including without prejudice to any determination of equivalents of the claimed subject matter.

Reconsideration of the application is requested. Applicants note with appreciation the Examiner's indication that claim 22 recites patentable subject matter.

The Office Action - Objections

In the Office Action, the Examiner has objected to the specification and requested that the priority claim be updated. Accordingly, Applicants have amended the specification in the first paragraph to indicate the status of the priority application(s).

The Examiner also objected to the specification at pages 5-9 as containing blank space and several non-understandable characters. Applicants have amended the specification to correct the typographical errors which resulted in the blank space. Applicants note that the omitted material, now restored, was present in the PCT application to which this application

claims priority and which was incorporated by reference herein at the time of filing of the present application. Applicants therefore submit that these amendments are proper and request entry of the same.

The Examiner also objected to the title as not being descriptive of the invention. Applicants have amended the title to read "PROTEIN HAVING RIBONUCLEOTIDE REDUCTASE ACTIVITY AND DNA THEREOF". Applicants submit that the amended title is appropriate.

The Examiner has also objected to the claim set for not beginning with a sentence of which the claims are an object. Applicants have amended the specification to overcome the objection.

In view of the above amendments and remarks, withdrawal of the objections is proper and the same is requested.

Rejection under 35 USC §112, second paragraph

Claims 24 and 25 stand rejected under 35 USC §112, second paragraph, for allegedly being indefinite. The examiner has pointed to the term "transformant" as being indefinite. While Applicants do not agree with this rejection, in order to expedite prosecution, claims 24 have been amended to recite the language ""transformed cell." Applicants respectfully contend that this language is not indefinite and that the claims meet all the requirements of, *inter alia*, 35 USC §112. Reconsideration and withdrawal of the rejection is requested.

Rejection under 35 USC §102

Claims 19-21 and 23-26 stand rejected under 35 USC §102(e) as being anticipated by Tang *et al.*, PCT publication WO 00/15799 ("Tang" or "Tang PCT publication"). This rejection is traversed.

The international patent application which resulted in the Tang PCT publication has, according to its cover page, an international filing date of September 17, 1999, and has an

international publication date of March 23, 2000. As provided in the current version of 35 USC §102(e), and described in more detail at MPEP 706.02(f)(1), an international application published under PCT Article 21(2) can be a reference under 35 USC §102(e) as of the international filing date (or the filing date of an earlier U.S. application to which priority is properly claimed) only if the international (PCT) application was filed on or after November 29, 2000 (and certain other requirements are met). In this case, the Tang PCT application was filed on September 17, 1999, i.e., before November 29, 2000, and therefore neither the Tang PCT publication nor any of its priority applications can be cited as references under 35 USC §102(e).

Reconsideration and withdrawal of this rejection is proper and the same is requested.

Applicants further note that the Examiner has accorded the present claims a priority date of June 28, 1999 (the filing date of the first Japanese patent application to which the present application claims priority). Applicants note that this priority date precedes the international publication date (March 23, 2000) of the Tang PCT publication. Accordingly, Applicants urge that the Tang PCT publication may not be used as a reference under 35 USC §§102(a) or (b).

New claims 27-34

New claims 27-34 are directed to isolated nucleic acid molecules related to SEQ ID NO:2 or SEQ ID NO:12, to recombinant vectors comprising the same, to transformed cells comprising the same, and to pharmaceutical compositions comprising the same. Applicants respectfully submit that these claims can be conveniently examined together with the claims previously pending, and therefore request entry and consideration of these new claims.

Early and favorable consideration of the new claims is respectfully requested.

CONCLUSION

Applicants believe that this application is in condition for allowance. Early and favorable action is requested.

The undersigned requests any extensions of time necessary for response. Although it is not believed that any additional fees are needed to consider this submission, the Director is hereby authorized to charge our Deposit Account No. 04-1105 should any fee be deemed necessary.

If the Examiner considers that obstacles to allowance still exist, the undersigned invites a telephone call at the number indicated below.

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Respectfully submitted,

By


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